

## ISSUE

Is the nonprofit organization described below, which otherwise qualifies for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code, operated exclusively for charitable purposes?

## FACTS

The organization was created to construct, maintain, and operate or lease a public hospital and related facilities. After construction of these facilities, the organization's only activity has been to lease such facilities to an association exempt from federal income tax under section 501(c)(3) of the Code. The lessee operates the facilities and pays as consideration an amount sufficient only to retire the organization's indebtedness incurred to finance the hospital and meet the organization's administrative expenses. Trustees of the lessee association make up the lessor organization's entire board of directors.

The articles of incorporation provide that the organization's purpose is to provide hospital facilities for city Y and the surrounding communities. The articles also provide that all of the organization's assets will be transferred, without consideration, to city Y when all indebtedness has been paid. City Y has agreed to accept title at such time.

With minor exceptions, the organization's income is derived from the lease payments and disbursements are made for administrative expenses and retirement of indebtedness.

## LAW AND ANALYSIS

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term 'charitable' is used in section 501(c)(3) of the Code in its generally accepted legal sense.

In the general law of charity, the promotion of health is considered to be a charitable purpose. Restatement (Second), Trusts, secs. 368, 372; IV Scott on Trusts (3d ed. 1967), secs. 368, 372.

The organization, by building and leasing a public hospital and related facilities to an exempt charitable association, which operates the facilities, for an amount sufficient only to retire indebtedness and meet necessary operating expenses, is furthering

the charitable purpose of promoting the health of the community. See Rev. Rul. 73-313, 1973-2 C.B. 174; see also Rev. Rul. 69-631, 1969-2 C.B. 119.

#### HOLDING

The organization as described above is operated exclusively for charitable purposes and, thus, qualifies for exemption from federal income tax under section 501(c)(3) of the Code.

#### APPLICATION INSTRUCTIONS

Even though an organization considers itself within the scope of this revenue ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.

In accordance with the instructions to Form 1023, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.